

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0006P**

**Withholding Tax  
Calendar Year 1997 and 1998**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is a registered retail merchant specializing in the sale of discounted merchandise at locations throughout the United States and abroad. Upon audit it was discovered that the taxpayer failed to withhold from unregistered out of state contractors, which has been an issue in the prior two audits. Taxpayer did not withhold income tax from any disbursements made to subcontractors. Supplemental audit includes only companies that were not registered to do business in Indiana.

Taxpayer protests the penalty assessed on an audit completed on August 2, 2000.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer requests the department waive its negligence penalty because it enters into numerous contracts and includes a clause in each contract to hold the subcontractor responsible for all tax requirements related to its contract.

The taxpayer failed to withhold tax from out of state contractors that were not registered with the department as required by statute and taxpayer has not provided reasonable cause for failing to do so.

**FINDING**

Taxpayer's protest is denied.